

Congress of the United States
Washington, DC 20515

October 14, 2011

The Honorable Hillary Clinton
Secretary of State
Harry S Truman Building
2201 C Street NW
Washington DC 20520

Dear Secretary Clinton:

The Environmental Impact Statement (EIS) process under the National Environmental Policy Act (NEPA) is the lynchpin of protection of our nation's natural resources for the health and safety of our citizens and the national economy. The heart of this process is the serious consideration that must be given to alternatives to the proposed project.

On Friday, the New York Times reported that the contractor hired to evaluate the environmental impacts of the pipeline and prepare the EIS was selected and paid by TransCanada. This contractor also played a substantial role in the State Department's public outreach process. Recently-released email communications between State Department officials and lobbyists for TransCanada regarding the proposed Keystone XL pipeline also raise serious concerns about the objectivity of the process. Rather than acting as fair arbiters of TransCanada's application to build a massive pipeline across environmentally sensitive areas of the United States, State Department officials appear to have acted as little more than cheerleaders for the company's bid.

Any manipulation of the EIS process taints its outcome, and makes the final product unacceptable as the basis for a finding of national interest. As members of the House of Representatives who are concerned about the impacts to the Nebraska Sand Hills and the Ogallala Aquifer of the proposed route of the Keystone XL pipeline, we request that you find the proposed route not in the national interest.

The Final EIS did not adequately consider alternatives to the proposed route of the Keystone XL pipeline. There are at least three reasonable alternatives that should have been considered. A northern alternative would avoid the Ogallala Aquifer and is shorter than the proposed route.

Yet, the Final EIS did not consider this alternative because of potential impacts to groundwater in North and South Dakota, but failed to compare those groundwater resources to the Ogallala, which provides 30% of the water used for irrigation in the United States. The only economic justification was a single email from TransCanada saying the slightly increased cost of this route would not be economical, but it provided no economic analysis to support that claim. A southern-only alternative connects to an existing pipeline in Cushing, Oklahoma, which is the current bottleneck for oil travelling from the Canadian border to the Gulf refineries. This alternative allows excess oil in the Midwest to reach the Gulf. The last is the alternative explicitly required under NEPA – the no action alternative. The Final EIS simply assumes that if this pipeline were not built, there would be other projects that would have the same impact, so the “no action” alternative was not analyzed. This is a serious weakness of the entire EIS, because consideration of the no action alternative allows the decision-maker and the public to better understand the impacts of the proposed project.

Groundwater impacts are potentially devastating to the Ogallala Aquifer, but the Final EIS did not adequately assess those risks. A University of Nebraska study found the potential for 91 significant spills over the pipeline’s lifetime, and no study evaluated the potential impact of a spill into the specific geology of the Ogallala Aquifer. TransCanada claims that it has plans to install sensors to detect leaks along the pipeline. However, independent scientists are concerned that the sensors will not detect small leaks, which can accumulate over time. For instance, in merely the first year the existing Keystone pipeline has been in operation, there have been 14 releases of more than five gallons, and one spill that released 400 barrels of oil. The Final EIS does not adequately assess these risks in the context of the more complicated pipeline through the aquifer. In its comments on the Supplemental Draft EIS, EPA expressed concern about potential risks, and recommended that the Final EIS evaluate other routes in more detail, and more clearly explain the reasons for not considering other routes in the original analysis, but the Final EIS does not do so.

The State Department’s failure to adequately consider real alternatives to the proposed pipeline route, including serious consideration of the no action alternative is unacceptable. Consideration of alternatives, including the no action alternative, is explicitly required in the National Environmental Policy Act (42 U.S.C. 4332(C)(iii) and 5 C.F.R. 1502.14). To make matters worse, recently released emails raise the worrying impression that the process of developing the Environmental Impact Statement may not have been objective. These emails, released through a Freedom of Information Act Request, display an alarmingly close relationship between State Department officials overseeing the process and TransCanada representatives. In addition, TransCanada is a “major client” of the contractor hired to prepare the EIS for the State Department, and selected the contractor for the State Department.¹ These relationships

¹ “Cardno Acquires U.S. Environmental Firms,” Cardno Press Release, June 10, 2010, http://www.cardno.com/pdfs/Media%20Release_EntrixERI%20Merger_10June10%20FINAL.pdf.

alarmingly suggest that the process may not have been objective, and this decision is too important to be clouded by even the appearance of impropriety.

The current proposed route is not in the national interest. Agriculture in Nebraska, and the United States as a whole, depends on the Ogallala Aquifer for clean, fresh water to grow staple crops for the United States and the world. A spill into that aquifer would put that supply in danger, and devastate farmers and the rural economy. The Ogallala Aquifer is a national treasure and a resource of critical national importance, and should not needlessly be put at risk when there are alternative routes that would avoid those risks.

As Members of Congress, we are bound to protect the national interest of the United States and its citizens. Given the significant risks of this pipeline route to our nation's precious groundwater resources, and the serious questions recently raised regarding the impartiality of the EIS process, we encourage the Department of State to reconsider the decision not to evaluate alternative pipeline routes, and request that you find this proposed route not in the national interest.

Sincerely,



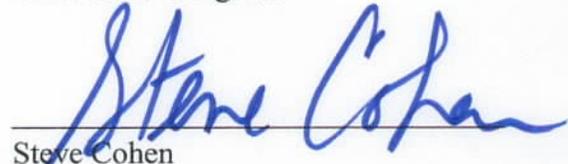
Earl Blumenauer
Member of Congress



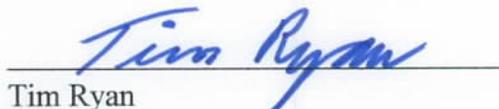
Peter Welch
Member of Congress



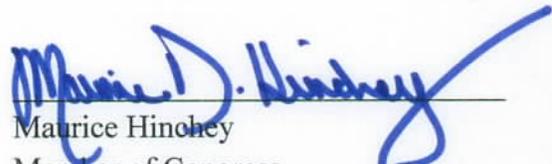
Barbara Lee
Member of Congress



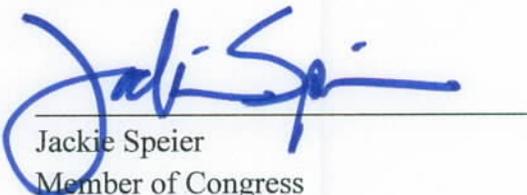
Steve Cohen
Member of Congress



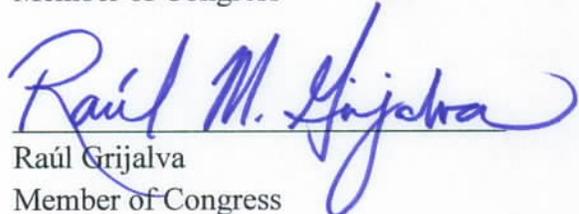
Tim Ryan
Member of Congress



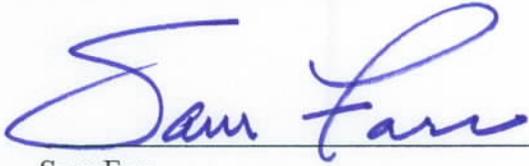
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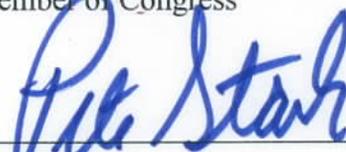
Bob Filner
Member of Congress



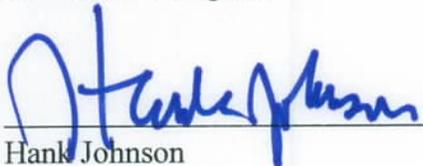
Chellie Pingree
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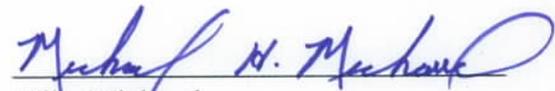
Jim McDermott
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Pete Stark
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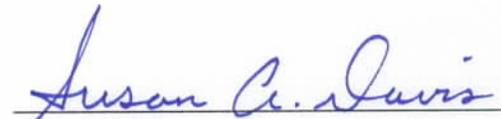
Hank Johnson
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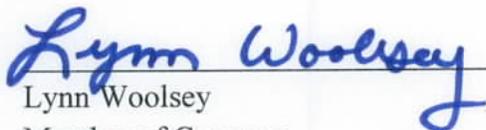
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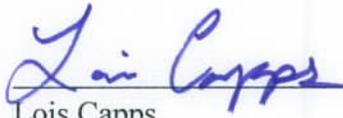
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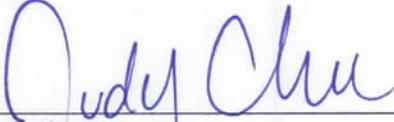
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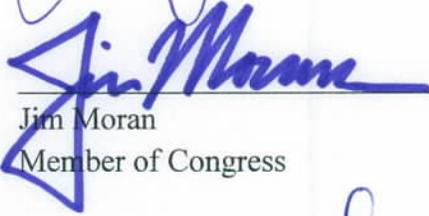
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Member of Congress



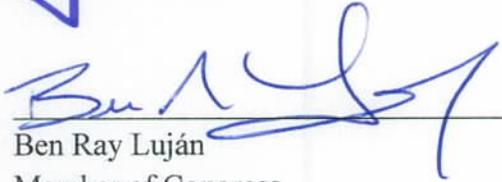
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Judy Chu
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Jim Moran
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Ben Ray Luján
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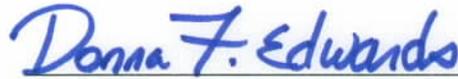
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Rush Holt
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John Conyers
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Donna Edwards
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Dennis Kucinich
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